



Funeral Consumers Alliance, Inc.

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~ A Federation of Nonprofit Funeral Consumer Information Societies ~

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Senator Dodd and members of the Children and Families Subcommittee,

Funeral Consumers Alliance appreciates the opportunity to participate in this hearing on the funeral industry. While we have all been shocked by recent scandals in several states, there are other consumer abuses occurring far too frequently in most states. Our areas of concern include:

- The FTC Funeral Rule
- The Telemarketing Sales Rule
- Portability or refundability of prepaid funerals
- The rights of families to participate in funeral rituals
- The sale of body parts.

Funeral and cemetery regulation should be endorsed by Congress.

Unlike the Sherman Anti-trust Act, the FTC Funeral Rule was never mandated by legislation. The current administration has created a climate that has led to concerns that consumer protection regulations may be threatened. While the initial Funeral Rule was less than perfect and needs some amendments, repeal or weakening would be a disaster for consumers. Before the Rule, families were forced to buy certain services such as embalming whether or not it was wanted. Before the Rule, a family might not know how much the funeral would cost until they were given a bill AFTER the funeral. All funeral-related vendors—especially cemeteries—should be required to adhere to the four basic tenets of the Funeral Rule: price disclosure, rights disclosure, no bundling or required purchases, and no false claims or misrepresentation to the public. Thirty percent of the funeral-related complaints that come to our office are in regard to cemetery misdeeds. No cemetery should get away with telling a widow she shouldn't order the free veterans marker because the cemetery won't take care of a marker it didn't sell. If the lawn mower chips it, that's just too bad, one widow was told.

The Telemarketing Sales Rule should be expanded to cover intrastate calls as well as interstate calls. A national or any "do-not-call" registry makes little sense if the preneed funeral sales person down the street can get an unlisted phone number from the funeral home and repeatedly call the grieving family, trying to sell future funerals even when the family wants no such contact. One such predatory commissioned sales person even called the family member at work as well as the unlisted number at home.

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Prepaid funerals should be fully transferable or refundable. Most people don't expect to alter arrangements when they pay for a funeral ahead of time. With the vagaries of life, however, people move, die while traveling, change their mind from body burial to cremation, or come upon hard times and need the money. Yet a person from Florida will be lucky to get back 40% of what was prepaid if he or she is moving back to North Carolina. If this is the case in Florida, you can realize that consumers have limited means to combat the lobbying of big industry, especially when members of industry dominate the regulatory boards as well. (In New York and a few other states, consumers may get a full refund at ANY time. The funeral industry does not seem to be experiencing any adverse financial impact as a result in those states.) Suggested model statutes would be a beginning but are still not enough.

Without full refundability, some minimum requirements should be put into place. In addition to honoring any do-not-call registry, funeral home sales people should not be allowed to initiate new contacts with a bereaved family for at least six months after a funeral. (Psychologists warn the grieving not to make major decisions during the first year after a death.) Preneed sellers should be required to hand out a consumer guide prior to discussing any sale. Once a preneed purchase has been made, the buyer should have a full year to back out, for a full refund unless the agreement was made irrevocable for Medicaid eligibility. All preneed contracts should fully disclose the dollar amount to be refunded and who gets the interest if the sale is canceled after the cooling off period.

Family members should have a right to witness the burial or cremation of a loved one or to file the death certificate without a funeral director. There might have been no missing caskets or vaults in Hawaii had that been the case. Perhaps there would have been no cutting up of bodies in California or the stacking of bodies in Georgia. In Connecticut and at least four other states, a dead body becomes a hostage of the funeral industry. Families may not care for their own dead in those states. A year ago, our office might have gotten two calls a month asking about this option. Recently, such inquiries are running three a week. I'm not sure if this is in response to the scandals or because some realize what a meaningful experience it can be, but one should not have to go to court to affirm this most basic right and tradition.

If we are to continue to support and encourage body, organ, and tissue donation, the federal government must make sure that no taking of body parts can occur without family authorization, that no business or company will be reaping inappropriate monetary gain from a family's compassionate generosity, and that those with the most critical medical needs are served first. The unregulated donated tissue market that now exists sometimes results in a shortage of tissue to meet critical medical needs. This is especially true with regard to skin donations needed by burn victims, according to reports by tissue procurement organizations around the country, some of which estimate that only 30% of the skin needed for burn patients is available.[Source: Transplant Resource Center of Maryland] Implementing the Bill of Rights for Families (of donors), which has been officially endorsed by a number of major organizations would be a good first step. Without a federal agency with the responsibility for regulatory oversight, however, abuses are bound to continue.

Thank you for your caring and concern.

Sincerely,

Lisa Carlson, Executive Director
Funeral Consumers Alliance